

STATES OF JERSEY



Jersey

DRAFT EMPLOYMENT (AMENDMENT OF LAW) (No. 3) (JERSEY) REGULATIONS 202- (P.88/2021): AMENDMENT

**Lodged au Greffe on 19th October 2021
by the Health and Social Security Scrutiny Panel
Earliest date for debate: 2nd November 2021**

STATES GREFFE

DRAFT EMPLOYMENT (AMENDMENT OF LAW) (No. 3) (JERSEY)
REGULATIONS 202- (P.88/2021): AMENDMENT

PAGE 9, REGULATION 2 –

In paragraph (3), in substituted paragraph (1)(a), for “15” substitute “20”.

HEALTH AND SOCIAL SECURITY SCRUTINY PANEL

REPORT

Background

The Panel received briefings from the Minister for Social Security and her officers in respect of the [‘Draft Employment \(Amendment of Law\) \(No. 3\) \(Jersey\) Regulations 202- \(P.88/2021\)’](#) on 16th September 2021 and 30th September 2021.

P.88/2021, as lodged by the Minister for Social Security, seeks to:

- i. increase statutory annual leave from 2 weeks to 3 weeks, in addition to all statutory bank holidays; and
- ii. introduce the right to a break during a working day of at least 15 minutes in any working period that lasts for at least six hours.

The Panel notes that P.88/2021 has reflected the recommendations provided in the *‘Statutory Annual Leave Entitlement and Working Day Rest Breaks in Jersey’ Report and Recommendations of the Employment Forum to the Minister of Social Security* (the ‘Report’).

The Panel welcomes the proposition to increase the statutory annual leave entitlement and, also, introduce a requirement for a rest period into the [Employment \(Jersey\) Law 2003](#) (the ‘Employment Law’). However, this amendment seeks to:

- increase the uninterrupted rest period to no less than 20 minutes in each continuous period of working no less than six hours.

Rest breaks

The Panel is supportive of the introduction of a rest period into the working day, but would like the entitlement to be set at a minimum of 20 minutes, to ensure that employees are guaranteed a break for that amount of time if they are to work for a period of 6 hours or more.

The Panel highlights that the proposed change will not specify whether the new rest period is paid or unpaid. This aspect will be left to the individual contracts of employment between the employer and employee.

The Panel believes that 20 minutes is a more appropriate minimum rest period (compared to the 15 minutes proposed by P.88/2021) for a number of reasons:

1. The survey undertaken by the Employment Forum specifically consulted with reference to a 20-minute rest-break. The Panel believes that the response to the following question supports the 20-minute rest period:

If the Employment Law is amended to require a 20-minute unpaid rest break during the working day, should it apply where an employee has worked for:

Answer choice:	Response % / number:
6 hours or more in a day	60.4% (183 responses)
More than 6 hours in a day	14.19% (43 responses)

Neither, a 20-minute rest break should not be introduced	25.41% (77 responses)
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(‘Statutory Annual Leave Entitlement and Working Day Rest Breaks in Jersey’ Report and Recommendations of the Employment Forum to the Minister of Social Security, page 38)

The majority of respondents to this survey felt that it would be suitable for a rest break of 20 minutes during a period of 6 hours, or more than 6 hours, in a day.

The Minister for Social Security’s instruction to the Employment Forum had been to consult on amending the Employment Law to provide that all employees in Jersey would be entitled to take a 20-minute unpaid rest break in each six-hour period worked. However, the subsequent recommendation from the Employment Forum had been for a 15-minute rest break.

The Panel acknowledges that the Employment Forum received a variety of responses, covering a diversity of arrangements, in the consultation and notes that the Report references a number of comments about the importance of flexibility of rest periods for some employees and the terms agreed in individual employment contracts. However, the Report does not specifically outline the scope of data and detail all of the responses received that led the Forum to recommend the rest-break time of 15 minutes, other than stating: ‘The members of the Forum have decided to recommend a 15-minute rest break in a working period of six hours or more, rather than 20 minutes, because, after studying the responses to consultation, the former appears to be at the level most frequently operated by businesses in Jersey’.¹

2. The Panel is of the opinion that an uninterrupted rest period during the working day is of great importance to the wellbeing of the employee. The Panel acknowledges that each job will be different, however, is of the opinion that a ‘rest period’ should provide the employee with sufficient opportunity to take time away from their workspace to check their own wellbeing and needs, whether this be to: take a comfort break / have some food / make a cup of tea / take a screen break / sit down / take a walk / get some fresh air / go inside to warm up, etc. Whatever they choose to do in their break, an extra 5 minutes could make a big difference.
3. The Panel notes from some of the responses quoted in the Report that a number of employees already receive, and employers provide, more than a 15-minute rest period during the working day. However, the Panel feels that introducing an entitlement to a rest period in the Employment Law is important in principle, especially for the employees who do not already benefit from a rest period from the terms of their employment contract and that setting a minimum time of 15 minutes would not be symbolic of best practice.
4. The Panel noted that both the United Kingdom and Northern Ireland are examples of jurisdictions where a rest break of 20 minutes is entitled if the employee is working for more than six hours. This amendment would bring Jersey in line with that as a benchmark.

¹ ‘Statutory Annual Leave Entitlement and Working Day Rest Breaks in Jersey’ Report and Recommendations of the Employment Forum to the Minister of Social Security, page 6.

Annual leave

As part of this Amendment, the Panel also considered proposing a further increase to the statutory annual leave, however, have decided against lodging that change at this time. The Panel are preparing a comments paper with further details on this, for the Assembly's information.

Conclusion

For the reasons outlined above, the Panel believes that this proposed amendment to P.88/2021 will provide a suitable minimum rest period requirement in the Employment Law.

Financial and manpower implications

There are no financial or manpower implications arising from this amendment.